

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Service Rules for the 746-764 and
776-794 MHz Bands, and
Revisions to Part 27 of the
Commission's Rules

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WT Docket No. 99-168

To: The Commission

**COMMENTS
OF
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION, INC.**

The Commission seeks comment on new service rules for commercial licensing in the 746-764 MHz and 776-794 MHz (hereinafter "700 MHz") bands being reallocated from commercial television services, including: (1) permitted services; (2) licensing and operating rules; (3) interference rules; and (4) auction procedures. The Personal Communications Industry Association ("PCIA")¹ filed comments in earlier stages of the proceeding, and is pleased provide its views on the FCC proposals contained in this Notice of Proposed Rulemaking ("NPRM")²

¹PCIA is an international trade association representing the interests of both commercial and private users and business involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Messaging Alliance, the PCS Alliance, the Wireless Broadband Alliance, the Mobile Wireless Communications Alliance, the Site Owners and Managers Association, and the Private System Users Alliance. In addition, PCIA is the FCC appointed frequency coordinator for the Business Radio Service, the 800 and 900 Mhz Business Pools, 800 Mhz General Category frequencies, and for the 929 Mhz paging frequencies.

²64 FR 36642 (July 7, 1999)

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I. Permitted Service

PCIA recognizes and supports the Commission's desire to implement service rules that will maximize permitted uses of this spectrum, minimize regulation and prevent interference. The Balanced Budget Act of 1997 amendment to Section 303(y)(2) gives the Commission the latitude to make flexible use spectrum allocations, but does not mandate such action.

Section 303(y)(2) of the Communications Act directs the Commission to find that a flexible service allocation would not deter investment in communications services and systems, or technology development. PCIA believes that "too flexible" a service allocation will have this negative impact. In order for manufacturers to invest millions of dollars in equipment development, testing and production, there must be at least two factors present: (1) sufficient demand for the product; and (2) regulatory certainty. These two factors have significantly damaged the growth of the 220-222 MHz radio service. Because of the limited amount of spectrum available (2 MHz), and the years of regulatory uncertainty at the Commission, there are now only two equipment manufacturers for this radio service.

The 700 MHz band could suffer the same fate as the 220-222 MHz band if the Commission permits a hodgepodge of service offerings across the entire band. It is extremely difficult to coordinate and encourage equipment development when the same channel will be used by land mobile in one geographic location, broadcast with a different channel block in another geographic area, and fixed wireless in a third area. Potential licensees are also uncertain about investments for licenses and equipment when the regulatory landscape and possibility for expansion when a system is at maximum capacity is uncertain. The Commission recognizes this possibility in paragraph 13 of the NPRM. Thus, it is PCIA's recommendation that the Commission make specific allocations which, while

providing flexibility, are sufficiently narrow to make equipment development economic and certain. This balance is not easy to achieve, but it is a balance that is vital to the successful deployment of services.

II. Allocations for Land Mobile Radio Services

The Land Mobile Communications Council ("LMCC") has made a significant showing of the need for additional spectrum for private, internal radio systems.³ The Commission has incorporated this Petition and the Comments received into this proceeding.⁴ PCIA has filed comments supporting this Petition, which we incorporate herein by reference. It is PCIA's belief that a small allocation of the 700 MHz Band for internal use systems will go a long way toward satisfying private user needs for the near future.

The Commission has a historic opportunity to satisfy the long-term needs of a substantial portion of the wireless industry which is spectrum depleted and attempting to implement new and technologically-enhanced systems. Despite the Commission's understandable hesitancy to allocate spectrum on a service-specific basis, PCIA requests that the Commission closely review the actual spectrum needs of the marketplace, and respond accordingly.

The spectrum at issue in this proceeding is well suited to a private allocation. The band is directly adjacent to the public safety allocation which has already been made, and the 800 MHz band where equipment development has created advanced technology systems. However, because so much of this spectrum has been acquired in one fashion or another by Nextel Communications, further development of non-iDEN advanced technology systems will not occur in the 800 MHz band unless

³See, RM-9267.

⁴NPRM at para. 15.

there is a synergistic band which the new developments will also benefit in terms of possible customer base for manufacturers. The 700 MHz band presents this possibility. Between the remaining 800 MHz and 900 MHz non-Nextel systems, the 700 MHz public safety allocation and the addition of private spectrum in the 700 MHz band, there should be sufficient demand for equipment to make continuing equipment development feasible.

This allocation would also be enhanced by a commercial allocation which would target the immense need for spectrum for private, multiple user dispatch systems. Just as large private users are struggling to find spectrum to implement advanced technology wireless systems, there is a need to find spectrum to implement advanced technology wireless dispatch systems for multiple-user systems. While the 450 MHz spectrum which has recently been "refarmed" will hopefully satisfy some part of this need over the very long term, the Commission's conversion of the 800 MHz SMR Pool "Upper Channels" left many with dispatch-only service needs without spectrum.

PCIA believes that by the Commission's allocation of just a small part of the 700 MHz band to non-commercial land mobile radio, and another small part for dispatch-oriented commercial land mobile radio, the Commission will go a long way toward satisfying demonstrated, real spectrum needs. The Commission should not make another broadcast television allocation. There is absolutely no need whatsoever for even more channels to be allocated for a saturated television marketplace. With upgraded cable systems delivering hundreds of channels of programming, and local television stations struggling to avoid further erosion of market share, the Commission must ask how many television channels are really necessary to promote the diversity of views which the Commission has now achieved everywhere.

III. Band Manager Concept

The Commission has briefly mentioned in this proceeding the concept of a "Band Manager" which was introduced in the Commission's Notice of Proposed Rulemaking in WT Docket No. 99-87.⁵ PCIA intends to more fully comment on this concept in the Docket No. 99-87 proceeding. In brief, PCIA believes that there is an insufficient understanding within the industry and at the Commission on the role of a Band Manager. In the one extreme, it would appear that a Band Manager would be an entity, for-profit or non-profit, which bids on spectrum at an auction and then has the ability to partition the frequencies to other entities. In the other extreme, spectrum would be allocated to one or more non-profit organizations, which would essentially take over the Commission's role in assigning spectrum and managing interference issue.

Rather than pursue the Band Manager concept, the Commission should explore reasonable means to delegate additional responsibilities for the management of private radio spectrum. This can best be accomplished through modifications to the responsibilities of the existing frequency coordinating committees. PCIA would not support, however, the assignment through auction of 700 MHz spectrum to a for-profit licensee which could then sub-lease the spectrum to others. This form of licensing achieves no different spectrum result than the existing licensing methodology of common carrier systems, which once licensed have the ability to disaggregate or partition spectrum. A band manager should not be a pseudonym for a carrier.

⁵Notice of Proposed Rule Making, FCC 99-52, released March 25, 1999.

IV. CONCLUSION

Among other uses for these bands, the Commission should allocate small portions to non-commercial land mobile radio and to dispatch oriented commercial land mobile radio.

Respectfully submitted,

PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION

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